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Summary of Amendments

TO THE PLANNING ACT AND RELATED LEGISLATION

The Planning Act

The Municipal Act

The Environmental Protection Act

The Condominium Act

The Ontario Municipal Board Act

Planning

reform
in Ontario

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INTRODUCTION

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This publication summarizes the amendments to the *Planning Act* and amendments to related legislation found in Bill 163. The Bill is the result of an extensive consultation process.

The very broad public consultation of the Commission on Planning and Development Reform in Ontario began in June 1991 and was undertaken by Commission chair John Sewell and commissioners Toby Vigod and George Penfold. In December 1993, the Minister of Municipal Affairs responded to the Commission's report and sent out a set of proposed policy statements for a 90-day consultation. The legislation also contains open local government provisions which are the result of four years of extensive consultation with the public and the local government sector. In the fall of 1994 the legislation went through public hearings and clause-by-clause review by the Standing Committee on the Administration of Justice. Significant changes were made at Third Reading as a result of the Standing Committee hearings. This summary includes those changes.

Bill 163 was introduced for First Reading on May 18, 1994, received Third Reading on November 28, 1994 and Royal Assent on December 9, 1994. The Bill is composed of five main parts which include provisions to amend and repeal parts of existing statutes and two schedules which set out the provisions of two revised Acts as follows:

- PART I Ontario Planning and Development Act, 1994 (Set out in Schedule A)
- PART II Local Government Disclosure of Interest Act, 1994 (Set out in Schedule B)
- PART III Planning Act Amendments
- PART IV Municipal Act Amendments
- PART V Other Amendments (These are consequential amendments to a number of Acts to complement changes made to the *Planning Act*. Other Acts amended include the *Condominium Act*, the *Environmental Protection Act* and the *Ontario Municipal Board Act*.)

Proclamation of the legislation is being phased. On January 1, 1995 the *Ontario Planning and Development Act*, the open meetings and disposal of municipal real property, and the technical amendments to the *Regional Municipality of Durham Act* and the *Municipality of*

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Metropolitan Toronto Act came into force. On March 28, 1995, amendments to the *Planning Act* and related legislation are expected to come into force.

This summary deals only with the *Planning Act* and related amendments. It does not deal with the *Ontario Planning and Development Act*, the *Local Government Disclosure of Interest Act* and the open meetings and disposal of municipal real property amendments to the *Municipal Act*.

HIGHLIGHTS OF PLANNING REFORM

PART III **Planning Act Amendments**

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DEFINITIONS

The definition section of the *Planning Act* is amended in the following ways:

- the definition of “official plan” refers to the relevant sections of the Act.
- a definition for “public body” is added. By defining a municipal, provincial or federal government agency as public body, the references to these bodies in the Act are simplified.
- a definition of First Nation is added to mean a band as defined in the *Indian Act*. First Nation is included in the “public body” definition. It recognizes that First Nation is more like a public body than a “person”.

PURPOSE

A new section 1.1, the Purpose section, is added to the Act. The purposes of the Act are to guide land use development through a provincial policy-led planning system, to promote sustainable economic development in a healthy natural environment, to provide for planning processes that are fair, open, accessible, timely and efficient, to integrate matters of provincial interest in provincial and municipal planning decisions and to encourage co-operation and co-ordination among various interests. It also recognizes the decision-making authority and accountability of municipalities in planning.

PROVINCIAL INTEREST

Section 2 of the Act is repealed and replaced with a new section to require all planning jurisdictions, including the Minister, municipalities, local boards, planning boards, and the Ontario Municipal Board, to have regard to matters of provincial interest such as those listed in section 2 in carrying out their responsibilities under the Act. The list of provincial interests has been expanded to include the protection of ecological systems, the provision of education, health, social, cultural and recreational facilities, the provision of employment opportunities and the appropriate location of growth and development.

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DECISIONS CONSISTENT WITH POLICY STATEMENTS

Subsection 3(5) of the Act is repealed and replaced with a new provision requiring that all planning decisions made under the *Planning Act* “shall be consistent with” provincial policy statements.

Under the new planning system (a policy-led system), the province issues a comprehensive set of policy statements to guide both provincial and municipal decision-making. The legislative change to “shall be consistent with” policy statements provides a stronger implementation mechanism than the old “have regard to” provision. This change is important under the new planning system where the province no longer approves many planning and development proposals.

ADVICE CONSISTENT WITH POLICY STATEMENT

Subsection 3(6) stipulates that the comments or advice of ministers, ministries, boards, commissions or agencies of the government, or Ontario Hydro, when dealing with a planning matter under the *Planning Act*, must be consistent with policy statements issued under the Act.

DEEMED CONSISTENCY

Subsection 3(8) provides that official plans approved after subsection 3(8) comes into force shall be deemed to be consistent with the applicable provincial policies. The new provision will add certainty to the approved official plan.

NON-APPLICATION

Subsection 3(9) stipulates that the deemed to-be-consistent provision in subsection 3(8) does not apply to an official plan or amendment adopted before subsection 3(8) came into force; or to an official plan amendment requested by any person or public body before subsection 3(8) came into force. There are transitional provisions in section 74.1 respecting official plans and amendments that commenced before the amendments to the Act come into force. They shall be continued and finally disposed of under the Act as it reads on the day before the amendments to the Act come into force.

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REVIEW

Subsection 3(10) requires the Minister to review policy statements not less than once every five years in order to keep the policy statements current.

MUNICIPAL PLANNING AUTHORITIES

New subsections 14.1 to 14.8 are added to the Act to enable the municipalities in one or more counties, with the approval of the Minister, to constitute a municipal planning authority. Members of council from each participating municipality would be appointed to the authority. The Minister may dissolve a municipal planning authority.

Subsections 14.1(2) and 14.4(2) stipulate that before the Minister approves a by-law to establish or expand a municipal planning authority, he/she must consult with the council of any affected county.

The creation of a municipal planning authority will allow municipalities, sharing similar growth, development and servicing pressures, to plan together. The amendment will provide the opportunity and incentive for joint planning to address common issues on managing growth and providing services. Subsection 14.7(3) stipulates that the municipal planning authority shall prepare and adopt a plan as an official plan pursuant to official plan provisions of section 17 of the Act. The county shall not exercise any power under section 17 in respect of land in the county that is in a municipal planning area.

Section 14.8 provides that the municipal planning authority shall be deemed to be the council of a municipality for the purpose of section 4 of the Act, enabling the Minister to delegate any of his/her approval functions to it. A municipal planning authority would have the same power as council to further delegate its power to staff, to perform the five-year official plan review and set or waive application fees. It also provides a municipal planning authority the same power as a municipal council in adopting and repealing an official plan or amendment.

Sections 51 and 53 are amended to allow the Minister to remove the power to approve plans of subdivision and consent from the assigned municipality and delegate it to the municipal planning authority where one is established.

Section 54 is amended by adding a new provision to allow the council of a county or a separated city to delegate the consent granting approval function to a municipal planning authority. The authority may, in turn, further delegate the consent granting function to a committee of the municipal planning authority or an appointed person.

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CONTENTS OF OFFICIAL PLAN

Subsection 16(1) provides that the contents of municipal official plans may be prescribed. Under the new planning system, the province will be relying on municipal official plans to implement provincial policies. The official plan will be required to address matters covered by provincial policies and other matters identified in regulation.

RESTRICTIONS FOR RESIDENTIAL UNITS

Subsection 16(2) incorporates the apartment-in-houses provisions from Bill 120 into the official plan section.

PRESCRIBED PROCESS FOR PREPARING OFFICIAL PLAN

Section 16.1 has been added and provides a regulatory framework for an optional process that municipalities may adopt by by-law and follow in preparing their official plan, which may be considered under the Environmental Assessment Act.

OFFICIAL PLANS AND OFFICIAL PLAN AMENDMENTS

Sections 17 and 22 of the Act are repealed and two new sections are substituted which set out the mandatory requirements for plan preparation and a streamlined official plan approval, referral and appeal system.

Assign power - The amendments stipulate that all regions, metropolitan/district municipalities, the County of Oxford, prescribed counties, separated municipalities (ie. municipalities within counties that do not form part of the counties for municipal purposes, excluding the Township of Pelee), cities in territorial districts, (excluding cities in regional or district municipality), planning boards and municipal planning authorities must prepare official plans.

The Regions of Durham, Haldimand-Norfolk, Halton, Hamilton-Wentworth, Niagara, Ottawa-Carleton, Waterloo and York, and the District of Muskoka have approved official plans and they are assigned the authority to approve the official plans and plan amendments of the area municipalities. Once all or part of the regional official plan for the Regional Municipality of Peel is approved, it will also be assigned the authority to approve area municipal plans. The legislation also provides that the Minister may by order remove the power given to the region or district and carry out the approval function in respect of any proposed official plan and amendments.

The council of a county not prescribed and the council of a local municipality may prepare and adopt an official plan for the municipality.

The process - The amendments set up a streamlined official plan approval and referral/appeal process. Time frames are specified for the local council and approval authority to follow in the official plan approval process. This revised process places greater emphasis on municipal decision-making and ensures that decisions are made in a timely manner.

For a person or public body requesting an amendment to the official plan, the council or the planning board will have six months (180 days) to adopt the amendment. During this six-month period, a public meeting to discuss the proposal will be required. If council/planning board fails to give notice of a public meeting within 90 days after the request is received, the person or public body that requested the official plan amendment may request council/planning board to forward the amendment to the approval authority for approval. This will allow amendment requests that are not actively considered by council/planning board to go to the approval authority for a decision after 90 days from the receipt of an application that contains the prescribed information. It should be noted that the 180-day time frame does not apply to official plans or amendments initiated by council/planning board itself.

At the public meeting, the council/planning board shall ensure that a copy of the “current proposed plan” is made available for public input. Council/planning board may hold additional meetings, but this will depend on the circumstances.

There is also a new provision to require a 14-day time separation between the holding of a public meeting and the council’s adoption of the proposed plan/amendment to ensure council/planning board the opportunity to address any concerns raised at the public meeting or in writing thereafter. It also provides the public with an early opportunity to review a draft document and make council/planning board aware of any concerns. Council would then have the opportunity to attempt to resolve any objections to the proposed plan/ amendment either directly or through an alternative dispute resolution mechanism. The intent is to ensure that ample opportunity is given to the public to bring their concerns to council early in the process, before council’s adoption of the proposed plan/amendment.

If council adopts the proposed plan/amendment, notice of the adoption is provided and the document is sent to the approval authority for a decision. If council fails to or refuses to adopt a requested amendment within six months, the applicant may request that the matter be forwarded to the approval authority for a decision. The approval authority would then

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have up to 150 days to make a proposed decision. If this 150 day period expires without a decision, the applicant may appeal to the Ontario Municipal Board.

When the approval authority receives an adopted plan or plan amendment from council/planning board, or receives a request from a proponent to consider a plan amendment that council/planning board has failed to act on, or has refused to adopt, the approval authority has 150 days to make a proposed decision. When the approval authority decides on the proposed plan/amendment, a notice is given of the proposed decision and the decision is final unless a request for referral is made within 30 days. A request could be made by the applicant or any person or public body.

Power to refuse or to dismiss referral request or appeal - Another integral part of streamlining the planning and development process is the expansion of the powers of both the Minister/ approval authority to refuse a referral request and the Board to dismiss appeals or referral requests without a full hearing. Grounds for the refusal or dismissal are that the referral or appeal is not based on any planning grounds; the proposal is premature because public water, sewage and road services will not be available within a reasonable time frame for the application; the referral or appeal is not made in good faith, is frivolous or vexatious, or is made only for the purpose of delay. The matter may also be refused or dismissed if a person fails to submit concerns to council at the time the proposal was being considered by council. Public bodies are also subject to the same rule as persons. The person or public body will have the opportunity to provide a reasonable explanation for having failed to make a submission to council before adoption.

Prescribed information - As part of the administrative streamlining measures, contents of applications are prescribed by regulation, setting out the minimum information requirements to be submitted to the approval authority. Council/planning board may by by-law require the applicant to provide prescribed information and materials. When submitting a plan or plan amendment to the approval authority for approval, the legislation requires that the prescribed information be submitted. Council/planning board and the approval authority are given the power to refuse to accept or to further consider any application that does not contain the prescribed information. Other information and materials may be required by council, planning board and the approval authority, but they do not constitute the prescribed information.

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REMOVAL OF THE DECLARATION OF PROVINCIAL INTEREST

The amendment removes the provisions in the *Planning Act*, R.S.O. 1990 which allow the Minister to declare a provincial interest on matters in official plans, plan amendments, zoning by-laws and zoning orders before the Ontario Municipal Board. This means the Cabinet will no longer be able to review or overturn OMB decisions.

DELEGATION BY APPROVAL AUTHORITY

Section 17.1 provides councils of assigned regions or districts the ability to delegate their authority to approve official plans and amendments of local municipalities, to a committee of council or to an appointed staff member. The regions may set conditions for delegation and have the ability to withdraw delegation.

PLANNING BOARDS

A new subsection 19.1 is added to provide that a planning board shall be deemed to be the council of a local municipality for the purpose of passing zoning by-laws, holding by-laws, interim control by-laws, temporary use by-laws, by-laws under section 37 pertaining to density bonuses and giving minor variances in unorganized territories. A new subsection 47(19) is also added so that the Minister may by order provide that a Minister's zoning order and the amendments to it, in respect of lands in the planning area of a planning board, shall be deemed to be a zoning by-law of the planning board.

WAIVER OF REQUIREMENT FOR APPROVAL

The provision in subsection 21(2) of the existing Act to permit the Minister to waive the requirement for approval of an official plan amendment is removed. This section is being repealed due to the changes to the process under s.17.

BY-LAW BEFORE APPROVAL

Subsections 24(2) and (4) are repealed and replaced by new subsections to delete the reference to “the Minister” and replace it with “the approval authority” and recognize the planning board's ability to pass zoning by-laws. These minor changes are required complementary amendments.

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Similar changes are made to sections 25, 26 and 27 replacing the reference of “the Minister” with “the approval authority”.

FIVE-YEAR REVIEW

Subsection 26(1) is amended to require municipalities to review their official plans for consistency with the provincial policy statements at the time of their regular five-year review.

CONSISTENCY WITH POLICY STATEMENTS

Subsection 26(4) requires council to make the necessary amendments to the official plan if it determines that the official plan is not consistent with the policy statements.

COMMUNITY IMPROVEMENT PLAN

Subsection 28(4) is amended to revise the cross-references to the various provisions of section 17.

ZONING BY-LAWS

Subsection 34(1) is expanded to include a provision to enable municipalities to prohibit development on land within significant natural and cultural heritage features as specified in the Act. This amendment would assist municipalities to implement policy statements issued under subsection 3(1) of the Act.

Subsection 34(11) has been amended to change the current time frame of 30 days for council to consider a request for rezoning to a more realistic time frame of 90 days to allow council to assess the proposal.

Subsection 34(25) is repealed and replaced with the provision expanding the Ontario Municipal Board’s power to dismiss an appeal without a hearing because the appeal is not based on any planning grounds, the proposed by-law is premature (public road, water or sewer services are not available to service the land in the proposed by-law), the appeal is not made in good faith, is frivolous or vexatious, or is made only for the purpose of delay.

HOLDING BY-LAW

Subsection 36(3) is amended by changing the period for council to consider an application to remove the holding symbol from a zoning by-law from 30 days to 90 days. This change brings the holding by-law section in line with the new provision that council has 90 days to consider a rezoning application in section 34 of the Act.

INTERIM CONTROL BY-LAW

Section 38 is amended to provide that an interim control by-law would remain in effect past the two-year period if the municipality adopts a new zoning by-law to implement a land use study and if the coming into force of the new by-law is delayed by appeals to the OMB.

SITE PLAN CONTROL

Section 41, the site plan control section, is amended to authorize county, regional, district and metropolitan municipalities to require land for public transit rights of way. Before municipalities can exercise this power, the public transit rights of way must be shown or described in the official plan. This amendment complements the provincial objectives to conserve energy and to protect the environment by encouraging more use of public transit.

PARKLAND DEDICATION

Sections 42, 51 and 51.1 are amended to clarify that the parkland dedication requirements under sections 42 (development and redevelopment) and 51 (plans of subdivision) do not both apply to a development unless specified changes in the proposal occur between the subdivision approval stage and the issuance of the building permit. The amendment allows a cash-in-lieu payment to be made under protest where there is a dispute only about the value of the land so that the development may proceed while the issue is under appeal. A third amendment clarifies that the value of land for consent purposes would be determined as of the day before provisional consent is granted. It also clarifies that the new parkland provisions do not apply to land proposed for development or redevelopment if the land was subject to a condition that land be conveyed to a municipality for park or other public purposes under sections 42, 51 or 53; or that a payment of money in lieu of such conveyance is made before the amendment to section 42 comes into force.

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MINOR VARIANCE

The current provisions in section 45 of the *Planning Act*, R.S.O. 1990 remain largely unchanged and there will be the opportunity to appeal decisions on minor variances to the Ontario Municipal Board. The Board is provided with similar dismissal powers for appeals as it has for other planning applications. The Board may dismiss an appeal based on the fact that the reasons for the appeal are not based on any planning grounds, the appeal is not made in good faith, is frivolous or vexatious, or is made only for the purpose of delay.

Subsection 45(14) is amended so that the appeal period is now 20 days instead of 30 days to be consistent with the appeal period for zoning by-laws.

MINISTER'S ZONING ORDER

Section 47 is amended to add new provisions to expand the Minister's power to refuse a request to refer a zoning order amendment to the Ontario Municipal Board. The expanded power would allow the Minister to refuse to refer if the referral request is not based on any planning grounds, or the proposed amendment is premature because public road, water or sewer services are not available to service the land. The Act already allows the Minister to refuse a request to refer if he or she is of the opinion that the request is not made in good faith, is frivolous, vexatious, or is made only for the purposes of delay. The Board is being given similar powers.

SUBDIVISION OF LAND

Several amendments are made in section 50, the subdivision control section of the Act, as follows:

Removal of power - Subsection 50(1) is amended by adding a new provision to enable the Minister, by order, to remove the consent granting power of a municipal council in respect of one or more consent applications or in respect of all applications. Currently, the consent granting authority is assigned to municipal councils of counties, regional/district municipalities, Metropolitan Toronto, separated local municipalities (except the Township of Pelee) and cities in territorial districts (except cities in regions and districts).

Delegation - Subsection 50(1.4) provides that if, the Minister revokes the authority of a municipality to grant consents, the Minister may delegate it to the municipal planning authority, where one is established. The Minister may also revoke the order delegating consent granting power to a municipal planning authority.

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Exemption of subsurface mining rights - Section 50 is amended by adding a new subsection 2.1 to exempt severances of subsurface mining rights from subdivision control (the requirement for a consent) and to cure past transactions that may have contravened the Act. The *Planning Act* already exempts severances of land on a horizontal plane. The eventual development of these subsurface mining rights is addressed through a rigorous and systematic approval process under the Mining Act.

Sunset provision for part lot control by-law - Section 50 is amended by adding new subsections 7.1 and 7.2 to authorize councils to set time frames for part lot control by-laws to expire and to provide municipal councils with the ability to give further extensions to the by-laws.

Exemption from power of sale approval - Subsection 50(18) is amended to exempt lots created by consent that are subject of foreclosure or power of sale on only part of the mortgaged land from the provision that approval be obtained from the council or the Minister, as the case may be.

PLANS OF SUBDIVISION

Section 51 is repealed and replaced by a revised and streamlined subdivision approval and appeal system.

Assign power - To recognize the diversity of municipalities, the amendment assigns the authority to approve plans of subdivision to the regional/district municipalities, the County of Oxford, cities in counties, whether or not they are separated from the county and cities in territorial districts (except cities in regions or districts). It also provides the Minister with the power to remove the approval function from these municipalities.

Subsections 51(8) to (10) require the Minister to designate a county as the approval authority for plans of subdivision under specific circumstances. The county must have an approved official plan and must by resolution request the designation.

Subsections 51(14) and (15) provide that, if the Minister removes the authority of a municipality to approve plans of subdivision, the Minister may delegate it to the municipal planning authority, where one is established. The Minister may also revoke the order to delegate.

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The process - The amendment provides a revised subdivision approval process and replaces the current referral system with an appeal system. It also specifies time frames for the approval authority to follow in the approval process.

As part of the administrative streamlining measures, contents of applications are set out in the Act and will be prescribed by regulation, setting out the minimum information requirements. The approval authority has the power to refuse to accept or to further consider any application that does not contain the prescribed information or the information required by the legislation. Other information and materials may be required by the approval authority, but they do not constitute the prescribed information.

The amendment allows six months for decisions. The approval authority is required to give notice of the application and may be required by regulation to hold a public meeting. Currently, there is no requirement for the giving of notice or the holding of a public meeting. This amendment would provide an opportunity for concerns to be mediated and resolved. Where a public meeting is required, the approval authority may require the local municipality or planning board to hold the public meeting.

There is a 14-day separation for the giving of the notice of the application and public meeting from the making of a decision. Once a decision has been made on a plan, there will be a 30-day period to appeal the decision to the Ontario Municipal Board.

If the conditions of draft approval are amended, notice of decision is to be given and is subject to the 30-day appeal period. However, the approval authority is not required to give notice where the changes to the conditions of approval were, in the opinion of the approval authority, minor in nature (subsection 51(47)).

Power to dismiss - Another integral part of streamlining the approval process is the proposal to expand the powers of the Board to dismiss appeals without a full hearing. The Board will be able to dismiss an appeal if it is not based on any planning grounds, or the proposed subdivision is premature because the public road, water or sewer services which are necessary to service the land are not available, the appeal is not made in good faith, is frivolous or vexatious, or is made only for the purpose of delay. The matter may also be dismissed if the appellant did not make oral submission at the public meeting or written submission to the approval authority before a decision.

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Lapsing - A new section is also added to enable the approval authority to provide for the lapsing of draft approval for plans of subdivision (minimum three-year period) and to extend this lapsing time. This amendment would give the approval authority the ability to set a date for the expiry of draft approval so that draft plan approval would be terminated in cases where the development is not proceeding to final approval.

Subdivision agreement - Subsection 51(27) provides that in unorganized territories, planning boards and any ministries will have the authority to enter into subdivision agreements and to require these to be registered against title.

Restriction - Subsections 51(28) to (30) incorporate the apartment-in-houses provisions from Bill 120 into the *Planning Act*.

DELEGATION TO LOCAL MUNICIPALITY

Section 51.2 provides councils of assigned regions or counties the ability to further delegate their authority to approve plans of subdivision to local municipalities, to a committee of council or to an appointed staff. The regions may set conditions for delegation and have the ability to withdraw delegation.

CONSENTS

Section 53 is repealed and replaced with a new section to incorporate several streamlining measures as follows:

The consent approval process now includes time frames for decisions. The consent granting authority has 90 days to consider a consent application. The 30-day appeal period to the Ontario Municipal Board remains and the Board's power to dismiss an appeal is expanded as in the subdivision approval process.

As one of the administrative streamlining measures, content of applications will be prescribed by regulation, setting out the minimum information requirements. The approval authority has the power to refuse to accept or to further consider any application that does not contain the prescribed information. Other information and materials may be required by the approval authority, but they do not constitute the prescribed information.

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There is a 14-day separation for the giving of the notice of the application and public meeting from the making of a decision. Once a decision is made on the consent, there will be a 30-day period to appeal the decision to the Ontario Municipal Board. A new provision is added to enable consent granting authorities to amend the conditions of the provisional consent, subject to the giving of notice and an opportunity to appeal. This amendment is consistent with the power given to approval authorities when dealing with plans of subdivision.

If the conditions of provisional consent are amended, notice of decision is to be given and is subject to the 30-day appeal period. However, the approval authority is not required to give notice where the changes to the conditions of approval were, in the opinion of the approval authority, minor in nature (subsection 53(26)).

DELEGATION OF AUTHORITY TO GIVE CONSENTS

Section 54 is amended to allow the council of a county to delegate the consent granting function to a municipal planning authority and to allow a separated city to delegate consent granting authority (in respect of land in a municipal planning area) to a municipal planning authority without obtaining the Minister's approval.

The municipal planning authority is also given the power to subdelegate its consent granting approval power to staff or a committee of the municipal planning authority.

DISTRICT LAND DIVISION COMMITTEE

Section 55 is amended to provide corporate status for district land division committees as is the case with planning boards.

ONTARIO HYDRO

Section 62 is amended to require that Ontario Hydro, in exercising any authority that affects any land use planning matter, shall have regard to the policy statements issued under subsection 3(1) of the Act.

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VARIATION OF NOTICE REQUIREMENTS

A new section 62.1 is added. To inform aboriginal communities of planning matters, municipalities and planning boards will be required by regulation to provide notice of applications and public meetings on planning applications to First Nations on reserves. Municipalities and planning boards are authorized to enter into agreements with First Nations to vary or waive the prescribed notice requirements.

DISPUTE RESOLUTION

A new section 65 is added to require the use of mediation, conciliation, and other techniques for the resolution of planning disputes if the decision-maker considers it appropriate. This may have the effect of reducing the number of matters being referred or appealed to the Ontario Municipal Board.

PROCEEDS OF FINES

Section 67.1 authorizes municipalities to keep the fines for enforcement of their by-laws passed under the *Planning Act*.

FEES

A new section 69.2 is added to provide the Minister with the power to collect fees for services from counties that are required by regulation to prepare county official plans but have failed to adopt a plan and submit it to the Minister for approval. This amendment is intended to encourage the prescribed counties to prepare their county plans expeditiously.

REGULATIONS

Section 70 is repealed and replaced with sections 70 and 70.1 which contain new provisions setting out the regulations that will be prescribed under the Act.

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DEVELOPMENT PERMITS

Under section 70.2, local municipalities may be authorized by regulation to adopt a development permit process for any area in a municipality and to delegate permit approvals to staff. Development permit areas may be defined in a municipal official plan and be used as an alternative to site specific zoning by-law amendments and site plans. An appeal process to the OMB may also be set out in a regulation.

ALLOCATION OF WATER AND SEWER SERVICES

Section 70.3 gives the Minister the power to make regulations authorizing municipalities to pass by-laws to allocate water and sewer capacity for plans of subdivision draft approved before and after the by-law is passed.

The regulations will set out the conditions and criteria that must be met by the municipality before passing such a by-law, including appropriate policies in the official plan and the policies to limit or restrict the manner in which municipalities may exercise this power.

TRANSITION

Section 74.1 is added to deal with transitional issues.

PART IV

Municipal Act

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Municipal Act

BY-LAW RESPECTING SITE ALTERATION

Section 223.1 provides municipalities the power to regulate by a by-law, the dumping of fill.

BY-LAWS RESPECTING TREES

Section 223.2 provides municipalities of over 10,000 in population, the power to pass by-laws regulating the cutting of any or all trees. Municipalities would be permitted to charge fees for issuing permits. Fines are established for contraventions of by-laws passed under this section and the courts will be able to order replanting.

SPECIAL COUNTY LEVY

Subsection 374(1) is amended to allow a special county levy for county land use planning purposes if a municipal planning authority has been established. This would allow a county to exclude municipalities participating in a municipal planning authority from the county planning levy in accordance with subsection 14.3(5).

PART V

Other Amendments

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Condominium Act

Subsections 50(2) and (3) of the *Condominium Act* are amended to include the cross reference to sections 51, 51.1 and 51.2 of the *Planning Act* so that condominium approvals are assigned to the regions and separated municipalities, as is the case for subdivision approval.

Environmental Protection Act

Section 66 provides the authority to make regulations to allow municipalities the discretionary power to establish a sewage system program which may include an inspection system for septics as well as other functions under Part VIII of the *Environmental Protection Act*.

SECTIONS 67 AND 69

Complementary amendments respecting Planning Act amendments are made to the *Municipal Boundaries Negotiations Act* and *Niagara Escarpment Planning and Development Act*.

Ontario Municipal Board Act Amendments

The intent of the amendments is to support the Ontario Municipal Board streamlining initiatives:

WHERE TERM EXPIRES

Section 12 of the *Ontario Municipal Board Act* is repealed and replaced by a provision to allow a Board member whose appointment expires during a hearing to complete the hearing and dispose of the matter. Currently, if the term of appointment for a Board member expires, an order-in-council is required to authorize the member to continue with any unfinished matter.

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QUORUM

Sections 13 and 16 of the Act are repealed and replaced with a new section 13 that provides that a quorum is one member. Currently, the Act permits the Chair to authorize one member to hear a matter but the Chair is required to sign an authorization for each case.

QUESTION OF LAW

Section 15 is repealed. This section currently provides that when present, the Chair is to preside at a sitting of the Board and that the Chair's opinion upon any question of law prevails.

GENERAL JURISDICTION AND POWERS

Section 37 is amended to provide for the holding of hearings by telephone or other electronic or automated means. The amendment would allow the Board to use this technology for holding hearings and contribute to streamlining and cost savings.

DISMISSAL WITHOUT HEARING

Section 37.1 is added to give the Board the power to dismiss any matter if no response is received to a request for information or if the prescribed fee has not been paid.

SERVICE BY FACSIMILE

Section 77 is amended by adding a new provision recognizing service of notices by fax.

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